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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,395	06/15/2001	Hans-Peter Krause	514413-3882	8304

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EXAMINER

PRYOR, ALTON NATHANIEL

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 02/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/882,395

Applicant(s)
Krause et al

Examiner
Alton Pryor

Art Unit
1616



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Dec 2, 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-14 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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Examiner acknowledges Applicant's election of the composition of claim 14 wherein compound A is drawn in claim 14 and compound B is Genapol 3938. However, due to the numerous families of herbicides being claimed the Examiner has restricted the claims by groupings as indicated below. Applicant's election in paper no. 12 appears to fall within the scope of Group XI below.

Restriction by Grouping

- I. If $Z = Z_4$ when $v=2$ and $V = V_4$ (non-heterocyclic) classified in class 504 subclass 218.
- II. If $Z = Z_4$ when $v=2$ and $V = V_1, V_2, V_3$ (heterocyclic) classified in class 504 subclass 219.
- III. If $Z = Z_4$ when $v=1$; $U_2 = N$; $V = V_1, V_2, V_3, V_4$ and If $Z = Z_2$; $t=2$; $V = V_1, V_2, V_3, V_4$; $X_1 = C$; $X_2 = N$ classified in class 504 subclass 244,246 .
- IV. If $Z = Z_4$ when $v=1$; $U_2 = S$; $V = V_1, V_2, V_3, V_4$ classified in class 504 subclass 288.
- V. If $Z = Z_4$ when $v=1$; $U_2 = O$; $V = V_1, V_2, V_3, V_4$ and If $Z = Z_2$; $t=2$; $V = V_1, V_2, V_3, V_4$; $X_1 = O$; $X_2 = S, C$ classified in class 504 subclass 292.
- VI. If $Z = Z_3$ where Y_1 or $Y_2 = S$; $V = V_1, V_2, V_3, V_4$ classified in class 504 subclass 269.
- VII. If $Z = Z_2$; $t = 2$; $V = V_3, V_4$; $X_1 = O$; $X_2 = N$ and If $Z = Z_2$; $t=2$; $V = V_1, V_2$; $X_1 = O$; $X_2 = N$ classified in class 504 subclasses 224,225.
- VIII. If $Z = Z_2$; $t=2$; $V = V_1, V_2, V_3, V_4$; $X_1 = O$; $X_2 = O$ classified in class 504 subclass 293.

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- IX. If $V = V1$; $Z = Z1$ or $Z5$ and If $V = V1$; ($Z = Z1, Z5; Z2, Z3$ five membered ring) classified in class 504 subclass 271.
- X. If $V = V2$; $Z = Z1$ or $Z5$ and If $V = V2$; ($Z = Z1, Z5; Z2, Z3$ five membered ring) classified in class 504 subclass 280.
- XI. If $V = V3, V4$; $Z = Z1, Z2, Z4$ or $Z5$ classified in class 504 subclass 348.

Inventions I-XI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions they have different effects.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classifications restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CAR 1.143).

Telephonic Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton Pryor whose telephone number is (703) 308-4691. The examiner can normally be reached on Monday through Friday from 8:00 a.m. to 4:30 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees, can be reached on (703) 308-4628. The fax phone number for this Group is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.


Alton Pryor **ALTON N. PRYOR**
PRIMARY EXAMINER

Primary Examiner, AU 1616

2/22/03